IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION
Dated : Nainital 08th day of March 2006
Criminal Misc. Bail Application No.1107 of 2005
Order on the bail application of accused

CRIMINAL SIDE

Intezar S/o Nisar
R/o village Harjauli Jhola
P.S. Jhabrera
District Haridwar ……... Applicant

Versus

State of Uttaranchal ……..Opposite Party

Arising out of case crime No. 55 of 2005
U/s 147, 148, 149, 452, 307, 326, I.P.C.
P.S. Jhabrera
District – Haridwar

Hon'ble J.C.S. Rawat, J.

Heard Sri S.P.S Panwar learned senior Advocate assisted by Sri H.C. Pathak learned counsel for the applicant and Sri S.K. Agarwal learned senior Advocate assisted by Sri Gopal Kr. Verma learned counsel for the complainant.

It was contended on behalf of the applicant that the injuries sustained by the injured are not fatal and it cannot be said that there was an intention to kill the injured. It was contended that the injuries indicated in the medial certificate shows that these injuries cant be caused by one gun shot. However, it has been alleged in the FIR that the accused fired upon the injured when he was inside the room and it was not possible that these injuries would have been caused by the accused by different gun-shots. The statement of Akhlak shows that Mujmil, Murtaza Intzzar and Intssar were having 'Tamanchas' and 'Dandas' in their hands at the time of incident. It was further contended that no specific weapon has been assigned to each of the accused and it is not clear that who was having the 'Danda' and who was having countermade pistol at the time of incident. Learned A.G.A. as well as the learned counsel for the complainant refuted the contention and contended that it is not to be seen that the injuries were fatal or not. It has to be seen and gathered as to whether the accused persons had the intention to kill the injured. The medical officer has

found six injuries on the person of the injured and these injuries could not be caused by single gunshot. It was further contended that the nature of weapon used, the place where injuries were inflicted and circumstances in which the injured left the spot to safe his life clearly show that there was an intention to kill the injured. It was further contended on behalf of the State that Akhlak was not the eye-witness of the incident. Rageev-an eyewitness and the injured had stated in their evidence that the accused persons were having 'Tamanchas' in their hands at the time of incident and they fired upon the injured. Considering the contentions, evidence on record, facts and circumstances of the case, it is not a fit case for bail. Therefore, the bail application is hereby rejected. Rejected.

(J.C.S. Rawat, J.

Dated 08.03.2006

LSR